

FILED  
KENNETH J. MURPHY  
CLERK

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

03 OCT 21 PM 3:26

U.S. DISTRICT COURT  
SOUTHERN DISTRICT OHIO  
WEST DIV CINCINNATI

DENNIS ALLEN, MARY JANE  
CRACRAFT, LELAN LITTRELL and  
GLASS, MOLDERS, POTTERY, PLASTIC  
AND ALLIED INDUSTRIAL WORKERS,  
LOCAL NO. 41, AFL-CIO,

Plaintiffs,

vs.

LEONARD D. KRISTAL, and JOHN L.  
CRARY,

Defendants.

JOHN L. CRARY,

Cross-Claimant,

vs.

LEONARD D. KRISTAL,

Cross-Defendant.

JOHN L. CRARY,

Third-Party Plaintiff,

vs.

POLLY JONES, SHIRLEY MONROE,  
JAMES THELAN,

Third-Party Defendants

Case No: C-1-01-159

Judge Herman J. Weber  
Magistrate Judge Timothy S. Hogan

DECLARATION OF ROBERT HOWARD  
IN SUPPORT OF MOTION FOR  
SUMMARY JUDGMENT

1  
2 I, Robert Howard, declare as follows:

3 1. I am over the age of eighteen and a resident of Aspen, Colorado. I submit this  
4 declaration in support of John L. Crary's motion for summary judgment.

5 2. The matters stated herein are known to me personally, and if called and sworn as a  
6 witness I could competently testify thereto. As to those matters stated herein on information and  
7 belief, I have been informed and believe the same to be true and upon that basis declare them to be  
8 true.

9 3. I was the special corporate counsel and Secretary of The Lassen Companies, Inc.  
10 ("Lassen") and its wholly owned subsidiary Wright-Bernet, Inc. ("Wright-Bernet") during the  
11 years 1999 and 2000. As such, I prepared certain corporate organizational documents including  
12 articles of incorporation, bylaws and corporate minutes for Lassen and Wright-  
13 Bernet. Other legal matters related to the operational aspects of Lassen and Wright-Bernet were  
14 handled by outside counsel directed by Lassen and Wright-Bernet management without my input  
15 or oversight.

16 4. To my knowledge, John L. Crary ("Crary") was never involved in the day-to-day  
17 operations of Lassen or Wright-Bernet.

18 5. To my knowledge Crary never had an operating role with Lassen/Wright-Bernet and  
19 no operating people reported to him at any time.

20 6. Lassen had three directors, Crary, Robert Morris and Leonard D. Kristal, who  
21 comprised its entire board. The Board of Lassen, not Crary individually, appointed Leonard D.  
22 Kristal ("Kristal") as the Chief Executive Officer ("CEO") and Chief Financial Officer of Lassen.

23 7. I believe that Kristal was the President and CEO of Wright-Bernet.

24 8. Crary's duty as Chairman of the board was to chair board meetings, and as an  
25 individual director, he had no individual authority or duty to monitor or oversee Kristal, the CEO  
26 of Lassen. Kristal reported to the entire board of three persons, not to any one director. Any  
27 oversight function of the CEO is accomplished by the Board collectively.  
28

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on October 14<sup>th</sup>, 2003 at Aspen, Colorado.

- 3 -